

**§301.45-12 Disqualification of qualified certified applicator to issue certificates.**

(a) Any qualified certified applicator may be disqualified from issuing certificates by the Administrator if he determines that one of the following has occurred:

(1) Such person is not certified by a State and/or Federal Government as a commercial certified applicator under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (86 Stat. 983; 7 U.S.C. 136b) in a category allowing use of the restricted pesticides Spray N Kill (EPA Registration No. 8730-30), Ficam W (EPA Registration No. 45639-1), and acephate (Orthene®); or

(2) Noncompliance with any of the provisions of this subpart; or,

(3) Failure to attend and complete, each time such person is recertified as a certified commercial applicator under FIFRA, a workshop approved by the Administrator on the identification and treatment of life stages of gypsy moth on outdoor household articles and mobile homes.

(b) The disqualification is effective upon oral or written notification, whichever is earlier. The reasons for the disqualification shall be confirmed in writing as promptly as circumstances permit, unless contained in the written notification. Any qualified certified applicator who is disqualified from issuing certificates may appeal the decision in writing to the Administrator within ten (10) days after receiving written notification of the disqualification. The appeal shall state all of the facts and reasons upon which the person relies to show that the disqualification was a wrongful action. The Administrator shall grant or deny the appeal, in writing, stating the reasons for his decision as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of practice concerning such a hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579-0088).

[58 FR 39423, July 23, 1993, as amended at 59 FR 46902, Sept. 13, 1994]

**Subpart—Japanese Beetle**

SOURCE: 44 FR 24035, Apr. 24, 1979, unless otherwise noted.

**QUARANTINE AND REGULATIONS**

**§301.48 Notice of quarantine; quarantine restrictions on interstate movement of regulated articles.**

(a) Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, and 150ee), the Secretary of Agriculture heretofore determined after public hearing to quarantine the States of Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia in order to prevent the spread of the Japanese beetle, a dangerous insect injurious to cultivated crops and not theretofore widely prevalent or distributed within or throughout the United States.

(b) No person shall move any regulated article interstate from any regulated airport destined to any of the following States except in accordance with the conditions prescribed in this subpart: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

[44 FR 24035, Apr. 24, 1979, as amended at 61 FR 32640, June 25, 1996]

**§301.48-1 Definitions.**

Terms used in the singular form in this subpart shall be deemed to import the plural and vice versa, as the case may demand. The following terms, when used in this subpart shall be construed, respectively, to mean:

*Administrator.* The Administrator of the Animal and Plant Health Inspection Service or any person authorized to act for the Administrator.

*Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

*Compliance agreement.* A written agreement between the Animal and

Plant Health Inspection Service and a person engaged in the business of moving regulated articles interstate, in which the person agrees to comply with the provisions of this subpart.

*Inspector.* Any employee of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Administrator to enforce the provisions of the quarantine and regulations in this subpart.

*Interstate.* From any State into or through any other State.

*Japanese beetle.* The live insect known as the Japanese beetle (*Popillia japonica* Newm.) in any stage of development (egg, larva, pupa, or adult).

*Person.* Any individual, corporation, company, partnership, society, or association, or other organized group of any of the foregoing.

*Regulated airport.* Any airport or portions of an airport in a quarantined State declared regulated in accordance with provisions in § 301.48-2 of this subpart.

*Regulated articles.* Aircraft at or from regulated airports.

*State.* Any State, territory, or district of the United States, including Puerto Rico.

*State Plant Regulatory Official.* The authorized official of a State who has responsibility for the operation of the State plant regulatory program.

*Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

[44 FR 24035, Apr. 24, 1979, as amended at 61 FR 32640, June 25, 1996]

**§ 301.48-2 Authorization to designate, and terminate designation of, regulated airports.**

(a) An inspector may declare any airport within a quarantined State to be a regulated airport when he or she determines that adult populations of Japanese beetle exist during daylight hours at the airport to the degree that aircraft constitute a threat to spread the Japanese beetle and aircraft destined for the States listed in § 301.48(b) may be leaving the airport.

(b) An inspector shall terminate the designation provided for under paragraph (a) of this section when he or she

determines that adult populations of Japanese beetle no longer exist at the airport to the degree that the aircraft pose a threat to spread the Japanese beetle.

[44 FR 24035, Apr. 24, 1979, as amended at 61 FR 32640, June 25, 1996]

**§ 301.48-3 Notification of designation, and termination of designation, of regulated airports.**

Upon designating, or terminating the designation of, an airport as regulated, the inspector shall give written notice to the official in charge of the airport that the airport has been designated as a regulated airport or that the designation has been terminated. The inspector shall also give the same information in writing to the official at the airport in charge of each airline or the operator of any other aircraft, which will move a regulated article to any State designated in § 301.48(b). The Administrator shall also give the same information to the State Plant Regulatory Official of each State designated in § 301.48(b) to which any regulated article will move.

[44 FR 24035, Apr. 24, 1979, as amended at 61 FR 32640, June 25, 1996]

**§ 301.48-4 Conditions governing the interstate movement of regulated articles from quarantined States.**

A regulated article may be moved interstate from a regulated airport to any State<sup>1</sup> designated in § 301.48(b) only if:

(a) An inspector, upon visual inspection of the airport and/or the aircraft, determines that the regulated article does not present a threat to spread the Japanese beetle because adult beetle populations are not present; or

(b) The aircraft is opened and loaded only while it is enclosed inside a hangar that an inspector has determined to be free of and safeguarded against Japanese beetle; or

(c) The aircraft is loaded during the hours of 8:00 p.m. to 7:00 a.m. only or lands and departs during those hours

<sup>1</sup>Requirements under all other applicable Federal domestic plant quarantines must be met.